

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

RONALD W. GARRITY, LTD.

AI # 41589

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* Settlement Tracking No.
* SA-WE-05-0043
*
* Enforcement Tracking No.
* WE-P-02-0660
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*
* Docket No. 2004-5420-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Ronald W. Garrity, Ltd. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who rents office space at the premises located at 71206 Hendry Avenue, Covington, St. Tammany Parish whereupon a sewage treatment plant facility is located ("the Facility").

II

On April 8, 2004, the Department issued a Penalty Assessment, Enforcement No. WE-P-02-0660, in the amount of \$5,204.38 to Respondent, which was based upon the Department's following findings of fact:

The Respondent owns and/or operates a sewage treatment plant which serves an office building owned and/or leased by the Respondent, which is located at 71206 Hendry Avenue in

Covington, St. Tammany Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG530000 on or about March 31, 1998, and was specifically assigned permit number LAG530669. The permit expired on November 18, 2002, and was administratively extended. LPDES permit LAG530669 requires the Respondent to comply with Schedule A of the permit. Under the terms and conditions of LPDES permit LAG530669, the Respondent is authorized to discharge treated sanitary wastewater to local drainage, thence into the Abita River, both waters of the state.

An inspection conducted by the department on or about May 2, 2001, and a subsequent file review conducted on or about February 22, 2002, revealed the following violations:

- A. The Respondent was not maintaining records as required by LPDES permit LAG530669. Specifically, there were no copies of laboratory analysis or DMRs available on-site for review as required by the permit. This is in violation of LPDES permit LAG530669 (Part I, Section C.6, Part III, Sections A.2, and C.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.J.2, and LAC 33:IX.2767.A.5.
- B. The Respondent has failed to submit Discharge Monitoring Reports (DMRs) as required by the permit for the monitoring periods of 1998, 1999, 2000, and 2001. Each failure to submit DMRs is a violation of LPDES permit LAG530669 (Part I, Section C.6, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.L.4, and LAC 33:IX.2767.A.5.

On March 22, 2002, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-01-0323 was issued to the Respondent for the above violations.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FOUR THOUSAND AND NO/100 DOLLARS (\$4,000.00), of which Three Hundred Four and 38/100 Dollars (\$304.38) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby

waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and

Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

RONALD W. GARRITY, LTD.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Mike D. McDaniel, Ph.D., Secretary

BY: _____
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(Print)

Approved: _____


Harold Leggett, Ph.D., Assistant Secretary